



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/851,040	05/05/97	VISSER	B 17342-000500

PM51/0305
TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

EXAMINER	
KANG, T	
ART UNIT	PAPER NUMBER
3635	13

DATE MAILED: 03/05/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/851,040

Applicant(s)
Visser

Examiner
Timothy Kang

Group Art Unit
3635



☒ Responsive to communication(s) filed on Jan 23, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-4, 6-16, and 18-36 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-4, 6-16, and 18-36 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

The following office action is responsive to the Continued Prosecution Application filed on January 23, 1999, on application serial number 08/851,040, filed by Barney D. Visser.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 6-16, and 18-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Searcy 4,154,027.

Searcy discloses the elements of applicant's claimed invention, including, at least three separate stores (66, 64, 116), each having elongate walls (80, 70, 68, 120, 124, 22, 24), doorways being aligned with each other (84, 88, 128), and an aisle (comprising the space located between the stores (64, 66, 116)). It would have been obvious to one having ordinary skill in the art to make each store (room) be managed independently since this is the common practice in most department stores. Regarding the limitation that each store have at least one separate outside entrance which lead directly to a parking facility, the examiner takes judicial notice that this is common practice in most shopping plazas and would therefore have been obvious to one having ordinary skill in the art.

Additionally, the examiner takes Judicial Notice that in most department stores such as Macy's, Nordstrom, Bloomingdale's, etc., there are separate sections/departments (with orthogonal walls and distinct entrances which directly to a parking facility) reserved for special merchandises such as designer's, furs, evening wears, etc. that could be considered as "separate stores" which are managed independently from one another. Customers would be able to walk through those sections/departments and view the merchandise in other sections/departments when looking down the aisle/walk-through spaces.

Furthermore, the examiner takes Judicial Notice that in many malls such as Potomac Mills, Tysons Corner, Pentagon City Mall, all located in Northern Virginia, there are separate stores (with orthogonal walls and multiple distinct outside entrances) each specializing in one type of merchandise, such as, furniture, clothing, toys, etc. that is managed by their own salestaff. Since most mall lay-outs include distinct wings, many stores would have both inside and outside entrances and the doors are usually aligned because most stores run along a straight elongated corridor. Customers would be able to walk through those stores and view the merchandise in other stores when looking down the aisle/walk-through spaces because stores typically have glass fronts and merchandise are displayed very close to the entrance. Therefore, applicant's claimed invention could further be rejected on the basis that the limitations of the claimed invention are functionally equivalent to existing layouts for the reasons as stated above.

The limitations of applicant's claim 16 directed to the merchandise are considered as being functions of design choice. Claims 25-36 are considered as being merely the inherent method of presenting inventory items in department stores or stores in malls.

Response to Arguments

3. Applicant's arguments filed on November 27, 1998 have been fully considered but they are not persuasive. Please refer to the rejections as cited hereinabove.

Regarding applicant's arguments directed to the outside entrances which lead directly to parking facilities, in particular "The Limited" and "The Limited Too" stores, it is the examiner's position that these stores have these outside entrances. Although these outside entrances are not intended to be used by customers, these outside entrances are required for receiving deliveries and for trash removal.

Regarding applicant's argument with respect to claim 11, it is common and well known for certain stores (such as restaurants) to have two doorways, one for entry and the other for exit on the same wall. As for applicant's argument with respect to claim 16, it is the examiner's position that most shopping plazas contain the recited elements and are therefore not patentable.

Regarding applicant's arguments directed to claim 21, it is evident from Searcy that a customer entering from the entrance located adjacent to element 64 could go through door 84 and then through 88 and would then meet the limitations of applicant's claimed invention.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sacks; Meehan; Quaintance.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy Kang whose telephone number is (703) 308-2168. The examiner can normally be reached on Monday thru Friday from 8:00 a.m. to 4:30 p.m. Any other questions or concerns can be directed to the group receptionist who can be reached at (703) 308-1113.



Carl D. Friedman
Supervisory Patent Examiner
Group 3600



T.B.K.
February 28, 1999